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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,490	01/28/2002	William A. Gindlesperger	085919.00003	3278
33448 7590 04/06/2007 ROBERT J. DEPKE LEWIS T. STEADMAN ROCKEY, DEPKE, LYONS AND KITZINGER, LLC SUITE 5450 SEARS TOWER CHICAGO, IL 60606-6306			EXAMINER KARMIS, STEFANOS	
			ART UNIT 3691	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/06/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/058,490

Applicant(s)

GINDLESBERGER, WILLIAM A.

Examiner

Stefano Karmis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed 01 December 2006.

Status of Claims

2. Claims 1-16 are cancelled. Claim 17 is newly added. Therefore claim 17 is under prosecution in this application.

Terminal Disclaimer

3. The terminal disclaimer filed on 01 December 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent 6,397,197 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to claim 17, the Examiner finds the claim to lack a tangible result. In order to be a tangible result, the process must produce a real-world result. The final step of independent claim 17 states, "identifying a candidate bid from said received bid data, based on

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comparative values of said bid prices.” This step is not considered tangible because it could be considered abstract or merely encompassed in thoughts. Therefore claim 1 does not produce a real world result. Amending the claim to include a step directed towards storing, printing or displaying the identified candidate bid or something similar would overcome the rejection.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (hereinafter Aycock) U.S. Patent 5,765,138 in view of Erickson U.S. Patent 6,014,644.

Regarding claim 17, Aycock teaches a method for evaluating potential vendors comprising:

Receiving a plurality of vendor records into electronic data storage associated with a computer system, the vendor records corresponding to each of a plurality of vendor records, each of said vendor records including vendor capability data identifying a plurality of capabilities for said vendor to provide a customized good or service (column 9, lines 37-58 and Figure 2, Element 64);

Vendors are included in a pool of vendors and stored electronic data identifying every vendor pool prior to analysis of any job data relating to a job for which bids are sought by or on

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behalf of the buyer (column 5, lines 13-65; Examiner notes that the initial stages of tier 1 analysis establish a master set of suppliers and narrow suppliers based on maturity requirements prior to considering RFP/RFQ data);

Receiving job data from or on behalf of at least one buyer, said job data having a job descriptor data which specifies a plurality of characteristics of a customized good or service representing a customized job for which a buyer wishes a price quote or bid (column 10, lines 17-54);

Automatically comparing via computer processor the plurality of characteristics of the job descriptor data with a corresponding plurality of capabilities of the vendors from the pool of vendors associated with said buyer (column 11, lines 10-30 and column 7, lines 46-65)

Automatically identifying via a computer processor at least one subset from the pool of vendors as being qualified for receiving an invitation to bid and soliciting the identified subset of vendors (column 11, lines 10-30 and column 7, lines 46-65; Examiner notes that Aycock teaches identifying at least one vendor from a "master list" of vendors based on factors relating to a customized project. Examiner notes that one vendor qualifies as a subset wherein the selected vendors receive the RFP/RFQ).

Aycock further teaches that the system is designed for competitive bidding and that when determining if a vendor is qualified, the price offered by the supplier is considered and performing a comparison (column 8, lines 53 thru column 9, line 2).

Aycock teaches that users play a role in determining whether suppliers are qualified by evaluating responses from suppliers from RFP/RFQ (column 11, lines 11-50). Aycock fails to teach that the buyer creates the initial vendor pool prior to job data analysis.

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Erickson teaches a system for facilitating communications between buyers and suppliers (Abstract). Erickson teaches that a buyer creates an initial list of suppliers (column 13, lines 5-20 and column 18, lines 26-41 and Figure 5, Element 94; Examiner notes that the buyer assembles the list of suppliers before any message regarding a desire to purchase an item). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Aycock to include the buyer selected vendor pools as taught by Erickson because it allows the buyer to have more control when determining which suppliers to select.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

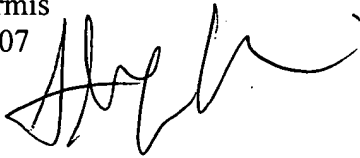
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted

Stefano Karmis

01 April 2007

A handwritten signature in black ink, appearing to read 'Stefano Karmis', written over the typed name.